

Appl. No. 09/996,663  
Atty. Docket No. 8794  
Amdt. dated June 6, 2006  
Reply to Office Action of 4/6/2006  
Customer No. 27752

### REMARKS

#### Claim Status

Claims 1-20 are pending in the present application. No additional claims fee is believed to be due.

#### Rejection Under 35 USC §102 Over Hupp (WO 01/51378)

The Office Action rejects claims 1-20 as anticipated by Hupp. The Office Action provides that the inclined surface of the fastener of the reference is a ramp and extends from the ramp, and that portion 64 of the reference is also a ramp that extends from the first end of the closure further having an inclined surface extending out of the plane of the fastener. Applicant respectfully traverses this rejection.

Applicant claims a ramp extending from the plane formed by the engagement of two fastener portions to form a reclosable fastener. Specifically, Applicant claims *inter alia* a two part fastener that defines an X-Y plane when the two parts are engaged. Applicant further claims a ramp extending from the defined X-Y plane. The Office Action makes reference to an inclined surface of the reference. This inclined surface appears to be a reference to a single fastener portion when uncombined to form a reclosable fastener. The relationship of elements of the reference when the respective portions of the fastener are not engaged is not relevant to the invention as claimed. The reference does not teach or suggest a surface extending out of the plane of the fastener comprised of a combination of a first and second fastener portions.

The Office Action provides that the reference teaches a ramp extending from the plane of the engaged fastener in the figures. Applicant submits that figure one cannot teach anything regarding the claimed invention since the portions of the fastener are not engaged as required by the claims. Fig. 2 and Fig. 3 depict all portions of the fastener lying in a single plane. The combination of the lid and body of the reference container yields an X-Y plane, the fastener portions of the lid and body lie in the plane of the reclosable fastener when the two portions combine to form the fastener. Item 64 also lies in this plane. Nothing in the reference teaches or suggests a ramp extending out of the plane of the reclosable fastener.

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As to claim 17, Applicant claims that a portion of the perimeter of the container lies in multiple planes. The Office Action does not address this limitation addressing only the fastener of the reference and not the perimeter. The cited reference does not teach or suggest a container having a perimeter lying in more than one plane which is sealed by a fastener.

The Office Action rejects claim 19 as anticipated by Fig. 2 of the reference. Fig. 2 shows a plan view of a closed container wherein the two part fastener is engaged. Applicant submits that it is not possible to determine if any part of the fastener depicted in this figure extends from the plane formed by the remainder of the fastener. A conclusory characterization of a portion of the fastener as a ramp does not satisfy the requirement that the reference teaches or suggests the limitation. Applicant respectfully requests that the rejection under 35 USC §102 be reconsidered and withdrawn.

Allowable Subject Matter:

Claims 18-20 were objected to in the previous Office Action but were otherwise identified as allowable. The objection has not been repeated, and no new rejection has been articulated by the Final Office Action. Applicant seeks clarification as to the status of claims 18-20.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC § 102. Early and favorable action in the case is respectfully requested.


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This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-20 is respectfully requested.

Respectfully submitted,

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By

  
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Date: June 6, 2006  
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